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July 12, 1996

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JUL 12 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, DC 20554

Federal Communications Commission
Office of Secretary

Re: MM Docket 96-16

Dear Mr. Caton:

On July 11, 1996, the Texas Association of Broadcasters filed Comments in the above-referenced proceeding. The Comments included the Declaration of Ann Arnold, Executive Director of the Texas Association of Broadcasters (Attachment C) bearing her facsimile signature.

We have now received the Declaration bearing Ms. Arnold's original signature. Attached hereto are an original and four (4) copies. Kindly associate these with the previously-filed Comments of the Texas Association of Broadcasters.

Should you or the staff have any questions, kindly contact the undersigned.

Sincerely,



Neal J. Friedman

Enclosures

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DECLARATION

I, Ann Arnold, declare under penalty of perjury as follows:

Federal Communications Commission
Office of Secretary

I am the Executive Director of the Texas Association of Broadcasters and have held that position since 1987.

**Profiteering In The Name
Of Equal Employment Opportunity
(Attachment C)**

Broadcasters report to me details of their difficulties they encounter in the current process that is intended to promote equal opportunity but in actuality allows some individuals to profit personally by abusing the FCC regulatory scheme. Station owners and managers who relayed the following information to me—in my experience—are responsible, public-spirited, fair-minded individuals who work hard to attract and promote minorities. They are stunned and embarrassed to find themselves accused of violating equal employment opportunity guidelines. Because of their embarrassment and concern that their valid protests will be misconstrued—and perhaps out of an unwarranted fear of potential retaliation—they report incidents to me that they never complain about publicly. So I will relay the reports I have received which I have every reason to believe and in many cases received documentation to substantiate. I omit the names of the individuals and the stations only because I received the information under a pledge of confidentiality.

People alleging discrimination rarely, if ever, file petitions to deny with the FCC. Rather, the Commission hears from one or two law firms that have taken on the self-appointed role of private attorneys-general in filing a blizzard of petitions to deny at renewal time. Such private attorneys-general are more like bounty hunters because while they claim they are acting in the public interest, they are really in it for themselves.

These bounty hunters don't start with hard evidence of actual discrimination. Rather, they simply review the last two Forms 395-B filed by broadcasters with the Commission to find stations which numerically appear to have low minority employment. The bounty hunters then contact a local organization in the station's area (one of the same organizations that are mute during the intervening years when licensees seek them out for referrals) and get someone from that local organization to sign a supporting affidavit, so that the bounty hunter's petition suddenly acquires a local burnish (necessary for standing purposes).

One broadcaster, who personally contacted the president of a local minority organization named in such a petition, learned the person who signed the document did not even hold the office stipulated. The actual president of the organization signed a declaration indicating he was a station

listener and had no complaints about the station's programming, hiring practices or public service in the community. That station, indeed, has a minority internship program that annually recruits high school students to work at the station part-time.

What often happens after the bounty hunter files a petition to deny is that they agree to withdraw their petitions in return for reimbursement of their "expenses" or payment for preparation of a supposed equal employment opportunity program. Several Texas broadcasters have provided me copies of such "programs" that amount to only a few pages of text outlining little more than what the station was already doing in contacting local minority organizations for referrals.

One station manager was told the petition against his station would be dropped if he paid the bounty hunter \$15,000. The manager/owner took out a bank loan and paid the bounty hunter, not knowing that withdrawal of the petition to deny would not terminate the FCC review process.

One station this year was asked for \$3,000. Eventually the station paid a bounty hunter \$1,500 for such a plan as part of an agreement that the lawyer would not press for a rehearing and harsher fine by the FCC.

The broadcasters, in effect, are forced to pay blackmail to the bounty hunters for their services in petitioning against the broadcasters' license. It is one thing for the government to require a business to pay an actual victim of discrimination. It is another thing entirely to have a governmental system that permits—and inherently encourages—third parties (persons and groups) who have not been harmed at all to derive income by filing petitions with the Commission.

The FCC should move swiftly to eliminate such blackmail by prohibiting reimbursement to bounty-hunting legal firms and third parties.

The forgoing is true and correct to the best of my knowledge and belief.

July 11, 1996

By

A handwritten signature in black ink, appearing to read "Ann Arnold". The signature is fluid and cursive, with the first name "Ann" and last name "Arnold" clearly distinguishable.

Ann Arnold

Executive Director